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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,101	07/19/2001	Jonathan J. Langberg	MITRAL.1CP1D1	9876

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EXAMINER

CHATTOPADHYAY, URMI

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/909,101

Applicant(s)

LANGBERG ET AL.

Examiner

Urmi Chattopadhyay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 7-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,5,7. 6) ☐ Other:

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Species I, claims 1-6 in Paper No. 6 is acknowledged. Claims 7-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

### *Priority*

2. Applicant has indicated that the current application is a divisional of parent application 09/774,869. However, since there was no election/restriction established in the parent case, 09/774,869, it is not appropriate that current application be considered a divisional. Also, because the specification of the current application and that of parent 09/774,869 are not identical, specifically under section heading "Summary of the Invention", this case is considered a continuation-in-part (CIP) of parent application.

### *Specification*

3. The disclosure is objected to because of the following informalities: on page 1, line 3, "divisional" should be changed to --continuation-in-part--.

Appropriate correction is required.

***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: element 218 shown in Figure 11A is not mentioned in the specification. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "114" has been used to designate both the lock body (Figure 8) and the tissue contacting surface (Figure 5). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitation "the adjacent atrial musculature" in line 7. There is insufficient antecedent basis for this limitation in the claim.

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8. Claims 2-6 are indefinite because use of "as in" in line 1 renders the claim unclear if all of the limitations of the claim(s) on which is depends are required. Examiner suggests changing claim 2 from "A method as in Claim 1," to --The method of claim 1,--.

9. Claim 3 should be rewritten following the Markush format for listing of elements. Examiner suggests the following: --The method of claim 2, wherein the accessing step is accomplished by accessing one of the veins selected from the group consisting of internal jugular, subclavian and femoral veins.--

***Allowable Subject Matter***

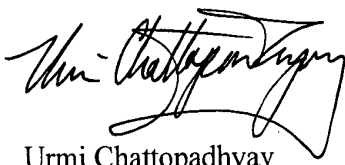
10. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

11. Claims 2-6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510 and whose work schedule is Monday-Friday, 9:00am – 6:30pm with every other Friday off. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.



Urmi Chattopadhyay

Art Unit 3738



CORRINE McDERMOTT  
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uc

December 30, 2002